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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/186,902	11/06/1998	DAVID JOHN PUNG	6937	2420

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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

17

DATE MAILED: 12/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/186,902

Applicant(s)

PUNG ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7,8,11-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,8,11-16 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment E, filed on November 15, 2002, has been entered as Paper No. 16. Claim 5 has been cancelled. Claim 1 has been amended. Claims 1-4, 7, 8, 11-16, and 18-21 are currently pending. It is noted that claim 17 was cancelled in Amendment D, filed on May 29, 2002.

Claim Objections

2. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 7 depends from Claim 6, which has been cancelled, but depends from Claim 1. It is therefore assumed that Claim 7 should depend on Claim 1. But under this scenario, the limitation of claim 7 is already present in claim 1.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-5, 7, 8, and 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al. (U.S. Patent No. 4,755,421) in view of James et al.

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(U.S. Patent No. 5,674,591), Gordon et al. (U.S. Patent No. 5,763,332) and Pregozen (U.S. Patent No. 5,141,803).

Manning et al. disclose a wiper including a nonwoven web made of special blend of cellulosic fibers held together only by friction and naturally occurring hydrogen bonding. The nonwoven fibrous web is produced by subjecting a wet-laid web of cellulosic fibers to hydroentanglement (Abstract). The reference further teaches that wet wipes usually are stacked and wrapped in a liquid-tight package while maintained in a liquid preservative composition containing an anti-microbial agent comprising about 50 to 300 percent by weight of the dry wiper weight. The wetting liquid can include water and often it will contain bactericides and other biological control agents, as well as perfumes and emulsifiers to disperse those ingredients, and it may be maintained at an acid pH level to further inhibit growth of organisms over sufficiently long time periods (column 1, lines 45-55). Further, the reference teaches that the web has a basis weight in the range of 20-90 grams per square meter (claim 1). Manning et al. does not disclose that the hydroentangled web has a three dimensional pattern of discrete, raised fibrous regions. James et al. disclose nonwoven fabrics having a raised portion integrally forming a three dimensional pattern projected out of the planar background portion, wherein both portions have equal basis weight and density (claim 1). James et al. further provide a transition region between the raised portion and background portion having a different basis weight (claim 2). James et al. teach this process can be applied to hydroentangled fabrics (column 2, lines 53-68), which is the type of fabric that Manning et al. disclose using for the wet-wipe. It would have been obvious to one

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having ordinary skill in the art to provide the hydroentangled web of Manning et al. with a three dimensional pattern in order to improve the aesthetics of the wipe, as taught by James et al. Neither Manning et al. nor James et al. teach embossing. Manning et al. do not teach the caliper of the wet-wipe to be between 0.3 and 1.05 millimeters. If such a thickness is not already inherent to the wipe of Manning et al., it would have been obvious to one having ordinary skill in the art to make the thickness of the wet-wipe of Manning et al. between 0.3 and 1.05 millimeters thick, in order to create a wet-wipe with sufficient thickness to be used in the application of wiping the skin. Although Manning et al. disclose the use of emulsifiers in the wetting liquid of the wipe, the reference fails to disclose the use of anionic surfactants and paraffin. Gordon et al. disclose wet-like cleaning wipes and teach the use of anionic detergent surfactants (column 17, lines 51-52) and paraffin wax (column 24, Table IV). It would have been obvious to one having ordinary skill in the art to incorporate anionic surfactant into the wipe provided by Manning et al. in order to improve the cleaning performance of the article when the internal polar phase of the emulsion is released as disclosed by Gordon et al. (column 17, lines 45-47) and paraffin in order to create a hydrophobic layer (column 6, line 64 – column 7, line 51). Both Manning et al. and Gordon et al. fail to teach the amount of other elements in the cleansing composition. Pregozen discloses an aqueous composition for impregnating a nonwoven wipe having a pH of from 3.5 to 4.5, and moistened wipe with the aqueous composition (Abstract). Pregozen discloses concentrations of 0.2 to 10 weight % for skin moisturizers and humectants and 0.02 to 5 weight % for skin softeners and emollients (column 4, lines 40-44). The surfactant will

generally be employed at a concentration of 0.02 to 10 percent by weight basis on the weight of the aqueous compositions (column 4, lines 60-62). Pregozen also teaches the use of citric acid to adjust the pH of the composition (column 4, lines 20-26). The reference also teaches the use of a preservative system, using cationic biocides in the ranges of about 0.03 to about 0.24% of the aqueous composition (column 4, lines 9-13). It would have been obvious to one having ordinary skill in the art to modify the nonwoven fabric disclosed by Manning et al. to have an aqueous cleansing composition with an acid, moisturizing agent, and an anti-microbial active agent for the purpose of providing consumers with an alcohol-free wipe that has anti-microbial effects, as taught by Pregozen.

Response to Arguments

5. Applicant's arguments filed in Paper No. 16 have been fully considered but they are not persuasive.

6. In response to applicant's argument that the James et al. references is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the combination of Manning et al. with James et al. is proper, despite the fact that James et al. fail to teach that a cleansing composition can be coated or impregnated into the substrate or the fact that James et al. gives no

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disclosure to any perspective use of His substrate. James et al. disclose that the process for making raised portions in the substrate can be applied to hydroentangled nonwoven fabrics (column 2, lines 53-68). Applicant asserts that Manning et al. make the wipe by conventional wet laying techniques. However, the nonwoven web of Manning et al. is also hydroentangled (column 4, lines 9-10). Manning et al. disclose a hydroentangled nonwoven web and James et al. disclose a method for improving the texture of a hydroentangled nonwoven web. Therefore, the references are analogous and the combination is proper.

7. Applicant argues that Gordon et al. teach away from adding anionic surfactant to emulsifiers. The Examiner agrees that Gordon et al. warn from using significant levels, but certainly do not teach away from using it. Gordon et al. disclose that including anionic surfactant improves the cleaning performance of the article (column 17, lines 45-46), so there is motivation for a person having ordinary skill in the art to include this in the Manning et al. wet-wipe. Gordon does teach that greater than 2% should not be used, but Applicant's claimed range is 0.5 to 12.5%. This is clearly not outside Applicant's claimed range, so it does not teach away from Applicant's claimed invention. Gordon et al. is analogous art to Manning et al. because both disclose wet-wipe materials.

8. Applicant argues Gordon et al. and Pregozen do not teach the present invention's substrate. Gordon et al. and Pregozen are not used to show this feature. The combination of Manning et al. with James et al. is used to show the features of the

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substrate. Gordon et al. and Pregozen are used to show the features of the cleansing composition.

9. Applicant argues that Pregozen reference fails to disclose drying agent and there is no teaching or suggestion that the additional elements disclosed in Pregozen be incorporated into a composition that is coated onto or impregnated into a non-embossed substrate. However, Gordon et al. is used to show the drying agent. Further, Pregozen teaches these extra ingredients to be useful in a nonwoven cleansing wipe. The Examiner has already given a motivation for adding the ingredients of Pregozen to the wipe of Manning et al. combined with James et al. and Gordon et al. Applicant has failed to address this motivation specifically.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

December 2, 2002


ELIZABETH M. COLE
PRIMARY EXAMINER